

**REMARKS**

**INTERVIEW SUMMARY**

This paper responds to the Forms PTOL-85 and PTOL-413 dated November 19, 2010.  
Please find attached Summary of the Substance of the Interview.

**DATE OF INTERVIEW:** November 15, 2010

**PARTICIPANTS:** Examiner Connie Johnson (Group 1722)

Supervisor Cynthia Kelly

Sandra P. Thompson, PhD (Reg. No. 46,264)

**TYPE OF INTERVIEW:** Telephonic

**EXHIBITS:** None

**CLAIMS DISCUSSED:** Claim 1

**PRIOR ART DISCUSSED:** Kennedy et al. (US 6506497) and Lu et al. (WO 03/088343)

**AGREEMENT WITH RESPECT TO THE CLAIMS WAS NOT REACHED.**

**PROPOSED AMENDMENTS & RESOLUTION:**

First, the Applicants thank Examiner Johnson and Supervisor Kelly for the opportunity to discuss the matter by telephone. Substantively, the Kennedy and the Lu references were discussed, specifically that the chemistry presented in these references is different than the chemistry of the current claims. For example, the Lu reference does not teach the use or incorporation of organic absorbing compounds. The Examiner suggested limiting claim 1 to include specific porogens not disclosed in Lu. Dr. Thompson indicated that she would review the matter and address it during a Request for Continued Examination.

**35 USC §103**

Claims 1, 3, 6, 11-15 and 59 are rejected under 35 USC §103(a) as being unpatentable over Kennedy et al (US 6506497) in view of Lu et al. (WO 03/088343) as evidenced by Kennedy et al. (US Patent Publication 2007/0272123).

Claims 1, 27 and 29-31 are rejected under 35 USC §103(a) as being unpatentable over Kennedy et al (US 6506497) in view of Lu et al. (WO 03/088343) as evidenced by Kennedy et al. (US Patent Publication 2007/0272123) and Thies et al (US 2009/0029145).

Claims 1, 3, 11-13, 18, 26, 28-31 and 37 are rejected under 35 USC §103(a) as being unpatentable over Ravichandran et al (US 6677392) in view of Hayashi et al (US Patent Publication 2003/0091838), and further in view of Baldwin et al. (US Patent Publication 2002/0068181).

Claims 1 and 37 are rejected under 35 USC §103(a) as being unpatentable over Kennedy et al (US 6506497) in view of Dammel et al. (US Patent Publication 2004/0166434).

The Applicant respectfully disagrees. During an interview with the Examiner, the Examiner indicated that it may be wise to further limit the at least one porogen in the current claims in order to distinguish it from the Lu reference. The Applicants decided to remove the “at least one porogen” in order to pursue it in a divisional application. The current claims have become too complicated and the prosecution of these claims is being bogged down by references that don’t really apply to the claim as a whole.

The remaining references do not preclude patentability of the current claims. With respect to the remaining rejections, claim 1 as amended recites:

“An absorbing composition comprising at least one inorganic-based compound, at least one organic-based absorbing compound, and at least one material modification agent, wherein the at least one material modification agent comprises at least one adhesion promoter and at least one crosslinking agent, at least one catalyst, at least one

capping agent, at least one pH tuning agent or a combination thereof, wherein the at least one adhesion promoter comprises APTEOS triflate, APTEOS methanesulfonate, APTEOS nitrate, APTEOS nfb, ammonium triflate, ammonium nfb, ammonium methanesulfonate, ammonium nitrate, TMAH triflate, TMAH nfb, TMAH methanesulfonate, TMAA, TMAN, TMAH nitrate or a combination thereof, wherein the at least one adhesion promoter does not initiate crosslinking activity in the composition and wherein the absorbing compound absorbs light over at least an approximately 10 nm wide wavelength range at wavelengths less than 375 nm and wherein the at least one organic absorbing compound comprises anthraflavic acid, 9-anthracene carboxylic acid, 9-anthracene methanol, alizarin, quinizarin, primuline, 2-hydroxy-4(3-triethoxysilylpropoxy)-diphenylketone, rosolic acid, triethoxysilylpropyl-1,8-naphthalimide, 9-anthracene carboxy-alkyl triethoxysilane, phenyltriethoxysilane, 10-phenanthrene carboxy-methyl triethoxysilane, 4-phenylazophenol, 4-ethoxyphenylazobenzene-4-carboxy-methyl triethoxysilane, 4-methoxyphenylazobenzene-4-carboxy-methyl triethoxysilane or mixtures thereof.”

Please note that the at least one material modification agent requires at least one adhesion promoter and at least one crosslinking agent, at least one catalyst, at least one capping agent, at least one pH tuning agent or a combination thereof. In addition, claim 10 is canceled and incorporated into claim 1. Claim 10 is not cited in any of the 103(a) rejections, and none of the remaining cited references, including the Kennedy references, Hayashi, Dammel, Theis and/or Ravichandran – alone or in combination teach the following:

- the at least one material modification agent requires at least one adhesion promoter and at least one crosslinking agent, at least one catalyst, at least one capping agent, at least one pH tuning agent or a combination thereof;
- the at least one organic absorbing compound comprises anthraflavic acid, 9-anthracene carboxylic acid, 9-anthracene methanol, alizarin, quinizarin, primuline, 2-hydroxy-4(3-triethoxysilylpropoxy)-diphenylketone, rosolic acid,

triethoxysilylpropyl-1,8-naphthalimide, 9-anthracene carboxy-alkyl triethoxysilane, phenyltriethoxysilane, 10-phenanthrene carboxy-methyl triethoxysilane, 4-phenylazophenol, 4-ethoxyphenylazobenzene-4-carboxy-methyl triethoxysilane, 4-methoxyphenylazobenzene-4-carboxy-methyl triethoxysilane or mixtures thereof;

- **the at least one adhesion promoter does not initiate crosslinking activity in the composition;**
- ***the at least one adhesion promoter comprises*** APTEOS triflate, APTEOS methanesulfonate, APTEOS nitrate, APTEOS nfb, ammonium triflate, ammonium nfb, ammonium methanesulfonate, ammonium nitrate, TMAH triflate, TMAH nfb, TMAH methanesulfonate, TMAA, TMAN, TMAH nitrate or a combination thereof.

The Examiner addresses these individually, but the Examiner knows that the claims must be read as a whole; and therefore, the Examiner is taking each of these pieces individually and not considering them all together. As one example, the Kennedy references do not teach or suggest to one of ordinary skill in the art that the at least one adhesion promoter does not initiate crosslinking activity in the composition. This fact is true, because the silanes in the Kennedy references are not acting as adhesion promoters, but instead are forming the composition. In addition, the silanes in the Kennedy references are not the same as the ones recited in claim 1.

As another example, the Examiner contends that the mere mention of ammonium compounds in Hayashi means that one of ordinary skill in the art would consider them for the absorbing compositions of the present application. Again, this appears to be a case where the Examiner is pulling individual pieces from references and putting them together to form the claims, but not considering that the technology is completely different. Stating that since Hayashi mentions these ammonium compounds that one of ordinary skill in the art producing different compositions would consider them is not proper, since the assumption of chemical interactions cannot be assumed when the underlying constituents

of the composition are different. The Dammel, Theis and Ravichandran references suffer from these same shortcomings, in that none of them teach or disclose to one of ordinary skill in the art that the at least one material modification agent requires at least one adhesion promoter and at least one crosslinking agent, at least one catalyst, at least one capping agent, at least one pH tuning agent or a combination thereof.

It is clear that none of these references teach alone or in combination with one another the provisions of claim 1 to anyone of ordinary skill in the art. Therefore, claim 1 is allowable over all of the cited references. In addition, claims 3, 6, 11-15, 18, 26-31 and 59 are allowable as patentable over all of the cited references, by virtue of their dependence on claim 1.

**REQUEST FOR AN INTERVIEW**

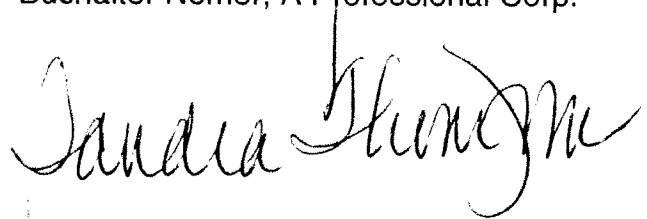
A Request for Interview form is attached herein. The Applicant explicitly requests an interview with the Examiner if this application is not put in condition for allowance. There may be claims amendments that the Examiner can enter at this stage that will allow this case to proceed to allowance, if it doesn't already.

**REQUEST FOR ALLOWANCE**

Claims 1, 3, 6, 11-15, 18, 26-31 and 59 are pending in this application. The applicants request allowance of all pending claims.

Respectfully submitted,

Buchalter Nemer, A Professional Corp.

A handwritten signature in black ink, appearing to read "Sandra Thompson". The signature is fluid and cursive, with the first name "Sandra" being more legible than the last name "Thompson".

Dated: December 2, 2010

By:

Sandra P. Thompson, PhD, Esq.

Reg. No. 46,264

E-mail: [patent@buchalter.com](mailto:patent@buchalter.com)

Direct Line: 949-224-6282

ATTORNEYS FOR APPLICANT(S):

Buchalter Nemer, A Professional Corporation  
18400 Von Kaman Ave., Suite 800  
Irvine, CA 92612  
Fax: 949-720-0182